

Remarks/Arguments

Claims 1 to 5, 7 to 9, 17 to 23 and 30 to 40 are pending. Claims 1 and 34 to 36 have been amended.

The Office Action stated that the Examiner notes that the non-elected Claims 10 to 16 and 24 to 29 have been cancelled.

The Office Action stated that receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

The Office Action stated:

"Specification"

"2. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use."

"Arrangement of the Specification"

"As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase 'Not Applicable' should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED
RESEARCH OR DEVELOPMENT.

- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), 'Sequence Listings' (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A 'MICROFICHE APPENDIX' (See MPEP § 608.05(a). 'Microfiche Appendices' were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(I) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A 'Sequence Listing' is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if required 'Sequence Listing' is not submitted as an electronic document on compact disc)."

[Emphasis Supplied]

The Office Action stated that this issue was ignored in the previous responses. The guidelines for the arrangement for the specification are not mandatory. Applicants decline to amend the specification to insert titles therein as such matter is not required.

The term "should" is not mandatory (for example, as is the term "must"), and only express expectation.

The Office Action stated that the objections to duplicate claims have been withdrawn because of applicants' amendments.

The Office Action stated that the objections due to minor informalities are withdrawn because of applicants' amendments.

Claim 1 has been objected to because of the following informalities: last line, "the" should be inserted before subsequent for clarity. The Office Action stated that appropriate correction is required. Claim 1 has been corrected in such way.

This objection should be withdrawn.

The Office Action stated that the rejection under 35 U.S.C. 101 of Claim 17 is withdrawn because of applicants' amendments of the claim.

The Office Action stated: that the amendments in response to the 35 U.S.C. 112 rejections of the previous Office Action are acknowledged and appreciated, and the Examiner has withdrawn the rejections; and that new rejections are necessitated by the amendments.

The Office Action stated that the following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 17, 34 and 35 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Applicants traverse, in part, this rejection.

The Office Action stated that Claims 17 and 34 are vague and indefinite because the claims fail to set forth any definite positive process steps to delimit the intended process. Applicants traverse this statement. Claim 17 is an independent process claim that recites "A process comprising utilizing....". [Emphasis Supplied] Claim 34 is a process claim that is dependent upon Claim 17. The word "utilize" is an action verb. The M.P.E.P., (Rev. 3), 2173.05 (q), states:

"BOARD HELD STEP OF 'UTILIZING' WAS NOT INDEFINITE"

"It is often difficult to draw a fine line between what is permissible, and what is objectionable from the perspective of whether a claim is

definite. In the case of *Ex parte Porter*, 25 USPQ2d 1144 (Bd. Pat. App. & Inter. 1992), the Board held that a claim which clearly recited the step of 'utilizing' was not indefinite under 35 U.S.C. 112, second paragraph. (Claim was to 'A method for unloading nonpacked, nonbridging and packed, bridging flowable particle catalyst and bead material from the open end of a reactor tube which comprises utilizing the nozzle of claim 7.')." [Emphasis Supplied]

Claims 17 and 34 are not indefinite.

The Office Action stated that Claim 34 is vague and indefinite because the relative or indefinite terms: (1) "small" does not convey the intended size of the bag, is not defined by the specification, and by virtue of its relativeness would be unascertainable to one skilled in the art; (2) "pouch-type" does not clearly convey the intended packaging; and (3) the meaning of "cushion-tube" in context is unclear. Applicants traverse, in part, this statement. Regarding (1), the item has been cancelled from Claim 34. Regarding (2), the term has been changed to "pouch". Regarding (3), the term "cushion-tube" pack is well known and understood in the art.

The Office Action stated that Claim 35 is vague and indefinite because the relative term "highly" does not convey the intended degree of charging, is not defined by the specification, and by virtue of its relativeness would be unascertainable to one skilled in the art. Applicants traverse this statement. The term is defined in the specification, is not indefinite, and is well understood by one skilled in the art. The application states:

“The sealing layer is preferably a hot-sealing layer. The starting materials for producing the sealing layer by an electrostatic process are in the form of dry particles i.e. powder particles, and preferably in the form of a powder paint. The coating particles usefully exhibit tribo-electric properties i.e. they can be electrostatically charged.”

“The powder particles or the powder lacquer particles preferably comprise or contain thermoplastic polymer which can be melted. The powder particles or powder lacquer particles may also be tribo-modified i.e. the particles contain additives which enable the particles to be highly electrostatically charged by mean of friction.” [Emphasis Supplied] [Page 2, lines 16 to 26]

The term “highly” means the result that particles are “tribo-modified”.

This rejection should be withdrawn.

The Office Action stated: that applicants’ extensive review of the Examiner’s previous Office Action and lengthy arguments are noted; that response thereto is moot because the amendments have overcome most of the rejections/objections are noted, except as repeated; and that the new rejections/objections are necessitated by the amendment.

The Office Action stated that the prior art does not teach nor suggest a method of manufacturing a flexible packaging material from a film or film-like laminate by transferring and applying thermally activated hot-sealing adhesive coating particles by electrostatic means onto at least a surface of the film or film-

like laminate, and the solidifying the adhesive, the adhesive properties being reactivated by heating in a subsequent sealing operation.

The Office Action stated that Claims 1 to 5, 7 to 9, 18 to 23, 30 to 33 and 36 to 40 are allowable, as would be Claim 35 if the rejection under 35 U.S.C. 112 was overcome. Applicants thank the Examiner for indicating the allowability of such claims. However, applicants believe that Claim 17 and 34 are also allowable.

Reconsideration, reexamination and allowance of the claims are requested.

Respectfully submitted,

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Date

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